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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 003797

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TAGS: [ECON](#) [EINV](#) [PREL](#) [PGOV](#) [JO](#) [IZ](#)
SUBJECT: GOI PASSES INVESTMENT LAW

REF: BAGHDAD UNCLASS O-I 10/10/06 B. BAGHDAD 2150 C.
BAGHDAD 2499 D. BAGHDAD 3453 E. BAGHDAD 3226

Classified By: Daniel Weygandt, Economic Minister Counselor, for reasons 1.4 (b) and (d)

1. (C) Summary. The Council of Representatives (CoR) passed the GOI investment law on October 10. Next steps include approval by the Presidency Council and publishing the law in the Official Gazette. Implementing regulations will also need to be drafted. The GOI investment law was debated vigorously in the CoR and became more open to foreign investment in the final version. Key enhancements include more decentralization of authority from the National Investment Commission to the regions, provisions that allow foreign investors to exchange shares on the Iraqi Stock Exchange, and the inclusion of tax and fee exemptions for a period of ten years. The law also provides for flexibility on hiring Iraqis and allows foreign investors to bank and purchase insurance inside or outside the country. While the final version of the law does not allow for land ownership, it does permit fifty year (renewable) leases. Implementation and coordination of the GOI and Kurdish investment laws, the latter allowing land ownership by foreign investors, remains to be seen. End summary

INVESTMENT LAW PASSES WITHOUT MUCH CONTROVERSY

2, (C) The Council of Representatives (CoR) passed the GOI investment law on October 10 (ref A). Members voted article by article. The investment law was one of Deputy Prime Minister (DPM) Barham Salih's key initiatives for economic reform for the new government and is modeled after the Jordanian law. We met with DPM Salih to provide suggestions before the law passed the Council of Ministers (refs B and C). Many of these recommendations were incorporated before it passed the Council of Ministers and was delivered to the Council of Representatives for its first reading on July 26. These include removing many regulatory and hierarchical structures and enhancing language relating to definitions and dispute resolution. We also met with the CoR's Economic Committee on several occasions, providing recommendations to remove protectionist restrictions in the law (ref D). The committee was receptive to our suggestions and many of our recommendations were incorporated in the final version.

13. (C) Between October 2 and 8, we heard vigorous debate in the CoR on the investment law, much of it protectionist. This included comments from adding language prohibiting investment from "an enemy state" (a characterization of Israel by a few Shia members of the CoR), limiting the period of leases to under 50 years, and requiring quotas on Iraqi

employment and stock ownership restrictions (this was ultimately deleted). The Economic Committee received comments from the entire CoR throughout the process, built consensus, and maintained a strong leadership position in creating an open investment climate for Iraq. At one point, Deputy Chair of the Economic Committee, Yonadam Kanna (Rafidayn Party), told us that "we worked hard on this law, but many people here are still scared of change." Despite the protectionist comments during the debate, the law became more open to foreign investment with each revision.

MAJOR PROVISIONS IN THE LAW

14. (C) The CoR decentralized the authorities of the National Investment Commission to the regions and governorates in the final drafts, mainly at the urging of SCIRI and the Kurds in the CoR. Earlier versions of the law involved more centralized structures at the national level. Specifically, the first version drafted by DPM Salih's staff included three national commissions of various levels that would have required the Prime Minister to make the decision on every investment decision. The final law gives more autonomy to the regions in providing licenses and other decision making. The law also provides for strategic planning and consultation between the central and regional authorities that appears well thought through. In addition, it includes more requirements for members serving on the board of the National Investment Commission, requiring a degree that suits the specialty of the Commission and takes steps to reduce corruption by not allowing those to serve who have been sentenced for a felony or misdemeanor "of moral turpitude" or have declared bankruptcy. We heard from CoR members the

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"bankruptcy" clause was intended to prevent former DPM Ahmad Chalabi from serving on the board of the National Investment Commission.

15. (C) The final law allows for lease or the rental of land for fifty years, with renewable leases. We pushed land ownership in all of our meetings with DPM Salih and the CoR which would have been the optimal result, but were told by both DPM Salih and the Economic Committee Chair Dr. Haider Abadi (Shia Coalition/Dawa) on separate occasions that the law "would not pass" with this provision. However, changes were made in the final drafts to allow for land ownership in the case of housing projects, which is a positive step. Fifty year leases that are renewable will provide certainty for foreign investors. There is still a fear in Iraq that foreigners will "buy up Iraq" and this was one of the most sensitive provisions in the investment law.

16. (C) The investment law also allows foreign investors to own investment portfolios and exchange shares and stocks on the Iraqi Stock Exchange without major restriction. This was one of the most positive elements we saw added to the law. This was another area where we pressed the CoR Economic Committee leadership. Earlier drafts in the CoR also limited ownership of stocks to forty-nine percent in partnership with an Iraqi company, so that a foreign company could not hold a majority. We also pressed for the removal of this restriction and were encouraged when this was ultimately deleted, despite opposition from some members in the CoR who said "there must be more Iraqi partnership" during the debate.

17. (C) Significant tax and fee exemptions are provided in the law to attract both Iraqi and foreign investors. These exemptions were expanded to ten years rather than the five years noted in earlier versions of the law. Earlier drafts also included vague references to development areas A through D with sliding percentages for tax exemptions, without indicating what geographical areas and activities would be covered. This language was removed and the new language is

more appropriate. We were told by Dr. Haider Abadi in one of our meetings that more specifics should be provided in the implementing regulations.

¶18. (SBU) Regarding employment, the law says that preference should be given to Iraqis for employment, but does not require quotas. Previous versions of the law included a fifty percent minimum Iraqi employment requirement, which we pressed the CoR to remove. During the debate, a CoR member argued that the "law should include a specific percentage of Iraqi labor." However, compromise language was accepted and additional language was added that encourages training of Iraqi workers.

¶19. (SBU) The dispute resolution language in the final version of the law is greatly enhanced from earlier versions of the law. In addition, foreign investors are given considerable flexibility to bank inside or outside of Iraq. In addition, it allows foreign investors to obtain insurance from companies inside or outside of Iraq as well. Other changes of note include increasing the cap from \$150 million to \$250 million before the Council of Ministers must review a proposal. We discouraged this restriction, and the increase of the cap appears to be a compromise.

IMPLICATIONS OF THE KURDISH AND NATIONAL LAW

¶11. (SBU) The passage of both a GOI and the Kurdish law with different terms has important implications. The biggest difference is the KRG law, which passed on July 5, allows ownership of land. The GOI investment law only allows for fifty year (renewable) leases. Regulation of investment, however, is not an exclusive federal power, so the KRG and national government both have the right to regulate investment. Also under the national Constitution, when there is a contradiction between regional and national legislation under the authority of the federal government, the regional law could "trump" or become the only applicable law in the Kurdish region. How this rule of federalism will work in practice is still unknown.

¶12. (C) On several occasions in our meetings with DPM Salih and the CoR Economic Committee we raised the question of the implications of the Kurdish law and GOI law working together in implementation, particularly in terms of the land ownership issue. In both instances, there appeared to be a

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preference to ignore the question for now. Of note, however, CoR Kurdish members who attended one of our meetings opened up their copies of the Constitution during this discussion and took a strong interest in the conversation.

NEXT STEPS

¶13. (SBU) As the next step, the investment law will need to be approved by the Presidency Council and be published in the Official Gazette. It will also need implementing regulations, but specifics regarding this process have not been determined. We will continue to engage the GOI on this issue in the weeks and months ahead. In addition, USAID's Izdiyar project will continue to provide technical assistance on investment to the National Investment Commission as it develops and will assist the GOI in drafting implementing regulations.

COMMENTS

¶14. (C) We were fortunate that the leadership of the Economic Committee, Dr. Haider Abadi and Yonadam Kanna, were

open-minded and supportive of an open investment climate and were receptive to our suggestions. Another member of the Economic Committee, Dr. Mehdi Hafeedh, the Minister of Planning and Development Cooperation during CPA, argued effectively during the open debate of the law. This pro-investment group of members were able to build consensus in the CoR such that the final version of the law promotes investment, rather than blocking it. We continue to enhance our legislative outreach program as more economic legislation is being considered in the CoR. We also plan to reach out to the PRTs, academic, and business community over the coming month to see how the passage of the investment law is being received in Iraq.

KHALILZAD